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In re Application of :
Elms, et al. : DECISION
Application No. 10/743,321 :
Filed: December 23, 2003 :
Dkt. No.: 86769-0026 US :

OFFICE OF PETITIONS

This decision is in response to the "STATEMENT UNDER 37 CFR 1.47(a) AND REQUEST TO WITHDRAW GRANT OF PETITION UNDER 37 CFR 1.47(a)," filed January 13, 2006.

The request is **DISMISSED**.

The legal representative of non-signing inventor Peter Elms herein requests that the previous grant of Rule 47 status be withdrawn.

The legal representative of non-signing inventor Peter Elms further states that Mr. Elm's believes the inventive entity of the instant application consists of Peter Elms and David K. Black. The legal representative of non-signing inventor Peter Elms has presented a declaration to this effect signed by Mr. Elms.

The request for withdrawal of Rule 47 status is subject to dismissal as once granted, Rule 47 status is not subject to withdrawal irrespective of the fact that the non-signing inventor may elect to join the application by executing an acceptable oath or declaration in compliance with 37 CFR 1.63 and 1.64. The papers filed by the legal representative of the non-signing inventor, including papers relating to the Rule 47 status accorded this application, have been placed in the application file wrapper.

The papers submitted by the legal representative of the non-signing inventor establish that the non-signing inventor has elected not to "join" the instant application as to do so requires the submission of an oath or declaration in compliance with 37 CFR 1.63 and 1.64 setting forth the inventive entity as declared by applicants and executed by the non-signing inventor.

As the legal representative of the non-signing inventor is no doubt aware, if the non-signing inventor feels that the inventive entity is that other than as set forth in this application, the non-

signing inventor may file his own application and request that his application be placed in interference with the 37 CFR 1.47 application. If the claims in both the nonsigning inventor's application and the 37 CFR 1.47 application are otherwise found allowable, an interference may be declared.

Insofar as the non-signing inventor's rights in the instant application, the legal representative of the non-signing inventor is directed to MPEP 409.03(i) for further guidance.

As the legal representative of the non-signing inventor is also no doubt aware, the United States Patent and Trademark Office does not engage in dual correspondence. The instant decision is being mailed to the legal representative of the non-signing inventor solely as a courtesy, particularly in light of the fact that the non-signing inventor has NOT joined the application by submitting an acceptable oath or declaration in compliance with 37 CFR 1.63 and 1.64. See MPEP 403.

Thus, the legal representative of the non-signing inventor and the non-signing inventor are advised that no further correspondence will be forth coming from the Office to either the legal representative of the non-signing inventor or non-signing inventor.

Should the non-signing inventor elect to join the application, an acceptable oath or declaration in compliance with 37 CFR 1.63 and 1.64 that includes the entire inventive entity set forth by applicants the should be submitted.

This application is being forwarded to Technology Center 2100.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3205. The undersigned, in all likelihood, would be disinclined to communicate with the legal representative of the non-signing inventor as the legal representative of the non-signing inventor is not properly empowered to make representations before United States Patent and Trademark Office with regard to this application.



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